

Assembly Bill No. 2415

Passed the Assembly August 27, 2014

Chief Clerk of the Assembly

Passed the Senate August 25, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 14.5 (commencing with Section 22260) to Division 8 of the Business and Professions Code, and to amend Section 12195 of the Government Code, relating to property tax agents.

LEGISLATIVE COUNSEL'S DIGEST

AB 2415, Ting. Property tax agents.

Existing law requires every assessor to assess all property subject to general property taxation at its full value and to prepare an assessment roll in which all property within the county that it is the assessor's duty to assess is required to be listed. Existing law requires a county board of equalization or an assessment appeals board to equalize the assessment of property on the local roll for the purpose of taxation. Existing law authorizes a taxpayer, with respect to each assessment year, to file an application for a reduction in an assessment, as provided, with the county board, which is the county board of supervisors meeting as a county board of equalization or an assessment appeals board.

This bill would, commencing April 1, 2016, prohibit a Property Tax Agent, defined as any individual who is employed, under contract, or otherwise receives compensation, from communicating directly or indirectly with any county official for the purpose of influencing official action relating to the establishment of a taxable value for any property subject to taxation, including representing a taxpayer before a county official, without first being registered and issued a registration number by the Secretary of State. The bill would provide that a violation of these provisions is a misdemeanor. The bill would require a Property Tax Agent to file, under penalty of perjury, with the Secretary of State an application for registration that includes specified information and a registration fee, as specified. Because this bill would create new crimes, this bill would impose a state-mandated local program.

This bill would make the registration subject to biennial renewal. This bill would require the Secretary of State to issue a cease and desist order to a Property Tax Agent if that person has been convicted of a misdemeanor or felony, as specified, or certain other

criminal offenses or has had his or her professional license, as specified, revoked, and to provide a copy of the notice to the Attorney General.

This bill would require the Secretary of State to develop a list of registered Property Tax Agents, and a list of Property Tax Agents who, after exhausting their administrative remedies, have been issued a cease and desist order, fined or convicted for committing specified violations, or whose license, as specified, has been revoked, and to make those lists publicly available on its Internet Web site, as specified. The bill would provide that a Property Tax Agent is subject to suspension or termination of his or her registration for engaging in specified activities and would authorize the imposition of civil penalties not to exceed \$1,500 for each violation of these provisions.

This bill would require the Attorney General, District Attorney, or City Attorney, as applicable, to notify the Secretary of State of any conviction of, or of any penalty or change in eligibility imposed against, a Property Tax Agent pursuant to these provisions. By imposing new duties on city attorneys' offices, this bill would impose a state-mandated local program.

This bill would preempt and supersede all local ordinances regarding the registration of any individual who communicates directly or indirectly with any county official for the purpose of influencing official action regarding a property tax assessment.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Chapter 14.5 (commencing with Section 22260) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 14.5. PROPERTY TAX AGENTS

22260. The following definitions apply for purposes of this chapter:

(a) “County official” means the county assessor, an assessment appeals board member, an assessment hearing officer, and any other county employee within those offices whose duties are not primarily clerical or manual.

(b) “Gift” shall be defined as set forth in the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code) and the regulations adopted thereunder.

(c) (1) “Influencing official action” means representing a taxpayer as an agent in connection with any matter before any county official by promoting, supporting, influencing, seeking modification of, opposing, or seeking delay of any official action by any means.

(2) The following shall not be considered to be influencing official action:

(A) The preparation, filing, or submitting of a form required by a county official for compliance purposes and communication with a county official related to factual information set forth, or required to be set forth, in that form, including communication occurring as a result of a statutory audit of that form by a county official.

(B) The act of contacting, or being contacted by, a county official solely for the purpose of ascertaining the current status of, or the methodology used by the county assessor in establishing, any of the following:

(i) A property’s taxable value.

(ii) A pending property tax refund.

(iii) A pending property tax transfer of base year value, exemption application, or exclusion application.

(C) If, while engaging in the activities described in subparagraph (A) or (B), an individual becomes engaged in influencing official

action, the individual shall have 10 business days to file an application for registration as a Property Tax Agent.

(d) “Official action” means establishing a taxable value for any property subject to property taxation, including initial value, declines in value, corrections to values and any other changes in the taxable value set; completing an assessment roll showing the assessed values of all property; applying all legal exemptions to assessments; issuing refunds; and deciding property assessment disputes between taxpayers and a county official.

(e) “Public official” and “public employee” mean any government official or employee of any state or local government agency.

(f) “Property Tax Agent” means any individual who is employed, under contract, or otherwise receives compensation to communicate directly, or through agents, employees, or subcontractors, with any county official for the purpose of influencing official action. A Property Tax Agent shall not include:

(1) An elected or appointed public official or public employee when acting in his or her official capacity.

(2) A person representing any of the following:

(A) Himself or herself.

(B) An immediate family member.

(C) An entity of which the person is a partner or owner of 10 percent or more of the value of the entity.

(3) An in-house tax professional or in-house employee representing his or her employer by influencing official action.

(4) A person who, accompanying the taxpayer or a registered Property Tax Agent, only provides his or her expert opinion to a county official.

22260.1. (a) (1) Each Property Tax Agent shall file, under penalty of perjury, with the Secretary of State an application for a registration containing the following information:

(A) The Property Tax Agent’s full name, business address, business telephone number, business email address, date of birth, and previous Property Tax Agent number issued by the Secretary of State, if applicable.

(B) The name of the Property Tax Agent’s employing tax agent firm, if applicable.

(C) A statement affirming that the person has not within the past 10 years:

(i) Been convicted of any felony under state or federal tax laws or convicted of any misdemeanor under state or federal tax laws applicable to acts or omissions occurring during his or her representation of any client.

(ii) Been convicted of any other criminal offense involving dishonesty, breach of trust, or moral turpitude.

(iii) Had his or her professional license to practice as an attorney, certified public accountant, public accountant, or actuary revoked by any duly constituted authority of any state, territory, or possession of the United States, including a commonwealth, or the District of Columbia, any court of record, or any agency, body, or board.

(D) A statement that the Property Tax Agent has read and understands the duties and prohibitions contained in Section 22260.6.

(2) Providing false information on the application for registration shall disqualify an individual from registration as a Property Tax Agent and subject the Property Tax Agent to the issuance of a cease and desist order by the Secretary of State.

(3) (A) A Property Tax Agent shall pay the Secretary of State a registration fee in the amount prescribed by subdivision (e) of Section 12195 of the Government Code. The fee shall be deposited in the Secretary of State's Business Fees Fund established in Section 12176 of the Government Code.

(B) The Secretary of State may cancel the registration of a Property Tax Agent if a check or other remittance accepted as payment for the registration or reissuance of a registration is not paid upon presentation to the financial institution upon which the check or other remittance was drawn. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall first issue a written notice of the applicability of this section to the Property Tax Agent or the person who submitted the payment instrument. Thereafter, if the amount is not paid by a cashier's check or the equivalent in certified funds, the Secretary of State shall issue a second written notice of cancellation and the cancellation shall thereupon be effective. The second written notice shall be issued at least 20 days after the first notice, and no more than 90 days after the date of the issuance or reissuance of the registration number.

(b) If the requirements of subdivision (a) are satisfied, the Secretary of State shall issue a Property Tax Agent registration number to the Property Tax Agent.

(c) Beginning on January 1, 2016, the Secretary of State shall accept applications for a registration from Property Tax Agents.

(d) Beginning April 1, 2016, a Property Tax Agent shall not represent taxpayers before a county official without first being registered and issued a registration number pursuant to this section. The Secretary of State shall provide the Property Tax Agent the same registration number should that Property Tax Agent reregister at a subsequent date.

(e) A registration issued pursuant to this section shall expire two years from its date of issuance unless and until that Property Tax Agent terminates the registration, the Secretary of State issues a cease and desist order, or a court suspends or terminates the person's eligibility to register.

(f) The Secretary of State, at least 30 days but no more than 90 days, prior to the expiration of the registration, shall send to the Property Tax Agent a notice of the registration's expiration.

22260.3. (a) Within 10 days of any change in any of the registration information submitted pursuant to Section 22260.1, a Property Tax Agent shall file updated accurate registration information with the Secretary of State.

(b) When a Property Tax Agent ceases all activities related to influencing official action, this fact shall be reported to the Secretary of State.

(c) It shall be a misdemeanor for any person to act as a Property Tax Agent if that person provided false information relating to the statements required by subparagraph (C) of paragraph (1) of subdivision (a) of Section 22260.1 at the time of his or her registration, or if that person is not registered as a Property Tax Agent pursuant to Section 22260.1.

22260.4. This chapter shall not be construed to prohibit a county from, by ordinance, enacting Property Tax Agent reporting requirements for campaign contributions to elected officials in that county or prohibiting such campaign contributions.

22260.5. (a) The Secretary of State shall develop a list of registered Property Tax Agents and make that list available to the public on its Internet Web site.

(b) The Secretary of State shall develop a list of registered Property Tax Agents, who after exhausting their administrative remedies, have been issued a cease and desist order, fined for or convicted of a violation of this chapter, or whose license as an attorney, certified public accountant, public accountant, or actuary has been revoked, and shall post the names and business addresses of those Property Tax Agents on the Secretary of State's Internet Web site.

22260.6. A Property Tax Agent shall be subject to civil penalties, and may be subject to suspension or termination of his or her Property Tax Agent registration, pursuant to Section 22260.8, for engaging in any of the following activities:

(a) Use, or participate in the use of, any public communication or private solicitation containing false, misleading, fraudulent, or deceptive representations, or intimate that the Property Tax Agent is able to improperly obtain special consideration or action from the county of any county official.

(b) Act as or attempt to act as, or claim to be the Property Tax Agent of a taxpayer, or represent a taxpayer before a county or any county official, without the authorization of that taxpayer.

(c) Violate Section 17533.6 or 17537.9 of the Business and Professions Code.

(d) Knowingly aid and abet another person to practice as a Property Tax Agent before the county or a county official during a period when the other person is not currently registered by the Secretary of State as a Property Tax Agent.

(e) Directly or indirectly attempt to influence, or offer or agree to attempt to influence, the official action of any county official by the use of threats, false accusations, duress, or coercion, by the offer of any special inducement or promise of an advantage or by bestowing any gift, campaign contribution, favor, or thing of value.

(f) Do anything with the purpose of placing any county official under personal obligation to the Property Tax Agent or another.

(g) Represent, either directly or indirectly, that the Property Tax Agent can control the official action of any county official.

(h) Make a gift or gifts of any monetary value to a county official. A Property Tax Agent shall not act as an agent or intermediary in the making of any gift or arrange for the making of any gift from any other person.

(i) Act as a Property Tax Agent in a county in which he or she serves as a county supervisor or as a member of the assessment appeals board.

(j) Make a campaign contribution to a county assessor, a candidate for office of county assessor, or member of the State Board of Equalization.

22260.7. (a) The Secretary of State shall issue a cease and desist order to a registered Property Tax Agent if the Secretary of State is notified, pursuant to Section 22260.3, or otherwise discovers that, within the past 10 years, either of the following circumstances exist:

(1) The Property Tax Agent had his or her professional license to practice as an attorney, certified public accountant, public accountant, or actuary revoked.

(2) The Property Tax Agent has been convicted of any misdemeanor under state or federal tax laws applicable to acts or omissions occurring during his or her representation of any client or has been convicted of any felony under state or federal tax laws or has been convicted of any other criminal offense involving dishonesty, breach of trust, or moral turpitude.

(b) The Secretary of State shall provide a copy of the cease and desist order to the Attorney General.

(c) Prior to issuing a cease and desist order to a registered Property Tax Agent pursuant to this section, the Secretary of State shall provide the Property Tax Agent with a written notice and an opportunity to demonstrate that grounds for the cease and desist order do not exist.

(d) If the Secretary of State is notified by the Attorney General, a district attorney, or city attorney pursuant to Section 22260.9, the Secretary of State shall suspend or permanently terminate the Property Tax Agent's registration, as appropriate, and update the list of Property Tax Agents established pursuant to Section 22260.5.

22260.8. (a) A person who violates this chapter shall be subject to a civil penalty not to exceed one thousand five hundred dollars (\$1,500) in a civil action for each violation brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney.

(b) The court shall impose a civil penalty for each violation of this chapter and may determine if a person who violates this chapter

shall remain eligible to be a Property Tax Agent or if that person's eligibility shall be suspended or permanently terminated. In assessing the amount of the civil penalty, and in determining eligibility, suspension, or termination, the court may consider relevant circumstances presented, including, but not limited to, the following:

- (1) The nature and seriousness of the misconduct.
- (2) The number of violations.
- (3) The persistence of the misconduct.
- (4) The length of time over which the misconduct occurred.
- (5) The willfulness of the defendant's misconduct.
- (6) The defendant's assets, liabilities, and net worth.

(c) If the Attorney General brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered for distribution to the county general fund, and one-half to the state's General Fund. If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered for distribution to the county general fund. If a city attorney brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the city in which the judgment was entered for distribution to the city's general fund, and one-half to the treasurer of the county in which the judgment was entered for distribution to the county general fund.

22260.9. The Attorney General, District Attorney, or City Attorney shall notify the Secretary of State of either of the following:

(a) Any conviction of a Property Tax Agent under Section 22260.3. The prosecuting office shall make this notification.

(b) Any civil penalty or change in eligibility imposed against a Property Tax Agent pursuant to Section 22260.8. The office bringing the action shall make this notification.

22260.11. The provisions of this chapter shall preempt and supersede all local ordinances regarding the registration of any individual who communicates directly or indirectly with any county official for the purpose of influencing official action regarding a property tax assessment.

SEC. 2. Section 12195 of the Government Code is amended to read:

12195. (a) Special filing fees for joint powers agreements are the following:

(1) Filing a notice of a joint powers agreement: One dollar (\$1).

(2) Filing an amendment of a joint powers agreement: One dollar (\$1).

(3) Filing an executed copy of each agreement, lease, or equipment trust certificate for an agency that financed or refinanced transit equipment or transferred federal income tax benefits with respect to transit equipment pursuant to subdivision (a) of Section 6518: One dollar (\$1).

(b) Special filing fees for athlete agents are the following:

(1) Filing an athlete agent disclosure statement: Thirty dollars (\$30).

(2) Filing an amendment to an athlete agent disclosure statement: Twenty dollars (\$20).

(c) The special filing fee for registering a claim as successor in interest is ten dollars (\$10).

(d) The special filing fee for issuing a certificate of official character is twenty dollars (\$20).

(e) Special filing fees for a Property Tax Agent registration are the following:

(1) Filing a Property Tax Agent registration: one hundred dollars (\$100) or a fee established by the Secretary of State in an amount so that the total amount of fees collected pursuant to this subdivision do not exceed the amount necessary to administer Chapter 14.5 (commencing with Section 22260) of Division 8 of the Business and Professions Code.

(2) Filing updated information for an unexpired Property Tax Agent registration: no fee.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement

to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2014

Governor